lower court permitted plaintiff to prove his industrious habits. *Held,* the evidence was properly admitted to aid the jury in determining plaintiff's earning power and the amount of damages. *Forsyth* v. *Wallace et al.* (Wash. 1916), 159 Pac. 696.

The court declined to exclude the proof under either the reasoning or the rule in *Davis* v. *Karnman,* 141 Ala. 479, 37 South. 789, or in *Pennsylvania R. Co.* v. *Books,* 57 Pa. 339, 98 Am. Dec. 229. These cases refused to allow evidence of industrious habits on the ground that it would prejudice the jury and lead to unjust damages. They are supported by *Louisville & Nashville R. Co.* v. *Woods,* 115 Ala. 527, 22 South. 33. The principal case follows the doctrine laid down in *Louisville & Nashville R. Co.* v. *Daniel,* 122 Ky. 256, 91 S. W. 691, 28 Ky. Law Rep. 1146, 3 L. R. A. (N. S.) 1190; *Metropolitan St. Ry. Co.* v. *Kennedy,* 82 Fed. 158, 27 C. C. A. 136; *Cameron Mill etc., Co.* v. *Anderson,* 98 Tex. 156, 81 S. W. 282, 1 L. R. A. (N. S.) 198. In these cases the view is taken that industrious habits are a part of a man's earning power and evidence of such habits is admissible as bearing upon the damages sustained. This rule is apparently in accordance with the weight of authority, and has been followed in *Texas Mexican Ry. Co.* v. *Douglas,* 73 Tex. 325; *Houston & T. C. Ry. Co.* v. *Cowser,* 57 Tex. 293. It is well settled that it is material to show the industrious habits of deceased as bearing upon what he might have earned for those entitled to his estate, when injury results in death. *Central of Ga. Ry. Co.* v. *Perkerson,* 112 Ga. 923, 38 S. E. 365, 53 L. R. A. 210; *Central Railroad* v. *Thompson,* 76 Ga. 770; *Baltimore & Ohio R. R. Co.* v. *Wightman's Admr.,* 29 Grat. (Va.) 431, 26 Am. Rep. 384; *International & G. N. Ry. Co.* v. *McNeel,* (Tex. Civ. App. 1895), 29 S. W. 1133; *David* v. *Southwestern R. Co.,* 41 Ga. 223; *Burton* v. *Wilmington & W. R. Co.,* 82 N. C. 505; *Chicago* v. *Sholten,* 78 Ill. 472; *Donaldson* v. *The Miss. & Mo. R. Co.,* 18 Ia. 280; *Pennsylvania R. Co.* v. *Butler,* 57 Pa. 335; *Kesler* v. *Smith,* 66 N. C. 154. There seems to be no valid reason why habits of industry should not be considered to enable the jury to determine pecuniary loss sustained by injuries not resulting in death.

DIVORCE—ALIMONY.—The husband had dissipated nearly all of a considerable property inherited by him. The wife sued for divorce and alimony. *Held,* that an award of the greater part of the husband's property, real and personal, for support of the wife and her three small children was not excessive. *Snay* v. *Snay* (Mich. 1916), 158 N. W. 858.

The amount of the alimony rests in the sound discretion of the court and many things are considered in measuring it, such as: the husband's health, age, earning capacity, future prospects and probable acquisition of wealth from any source, the amount of property owned by him and the amount owned by his wife. The amount of the alimony depends on the peculiar circumstances of each case. *Hooper* v. *Hooper,* 102 Wis. 598; *Bialy* v. *Bialy,* 167 Mich. 559. The weight of authority is opposed to awarding specific property except when authorized by statute as in Michigan. *Calame* v. *Calame,* 25 N. J. Eq. 548; *Brenger* v. *Brenger,* 142 Wis. 26. Some courts hold that there need be no such statutory authority to award real estate as alimony.

Berthelemy v. *Johnson,* 3 B. Mon. 90; *Muir* v. *Muir,* 28 Ky. L. Rep. 1355. A court rarely awards so large a part of the husband's property as in the principal case. Most cases hold that an award of one-half of the husband's property is excessive. Judge COOLEY so holds in *Hamilton* v. *Hamilton,* 37 Mich. 603. On facts much like those in *Snay* v. *Snay,* supra, the court held in *Ross* v. *Ross,* 78 Ill. 402 that an award of all the husband's property was excessive.

DIVORCE—MATRIMONIAL DOMICIL.—Plaintiff, whose original domicil was in Louisiana, at the age of eighteen entered West Point and later the United States Army, continuing in that service thirty-one years. During this time he was married to defendant in Brooklyn and resided there with her for twelve years; she refused to follow him to Oregon, (where he was sent by military order) and he, having returned to Louisiana to reside, brought suit for divorce on the ground of desertion. *Held,* that he never lost his domicil in Louisiana and that the court had jurisdiction. *Stevens* v. *Allen* (La. 1916), 71 So. 936.

The case is interesting because the statute of Louisiana defines abandonment as a withdrawing from the "common dwelling," and prior Louisiana decisions (*Heath* v. *id.,* 42 La. Ann. 437; *Muller* v. *Hilton,* 13 La. Ann. 1) have intimated that such "common dwelling" must have been in Louisiana. In the principal case the marriage was in New York, the desertion took place there, defendant is residing there, and has never been in Louisiana. Therefore the court deemed it important to establish the fact that at the time of the desertion the matrimonial domicil was in Louisiana. The court comes to that conclusion by the following steps: (1) A married woman has no other domicil than that of her husband (*Birmingham* v. *O'Neil,* 116 La. 1085; *Strouse* v. *Leipf,* 101 Ala. 433); unless through his fault she acquires a separate domicil (*Wilcox* v. *Nixon,* 115 La. 47; *King* v. *King,* 122 La. 582). (2) Unless otherwise provided by law a domicil of origin is retained until another is acquired (*First National Bank* v. *Hinton,* 123 La. 1025; *Borland* v. *Boston,* 132 Mass. 89). (3) Domicil is not forfeited by absence on business of the state or of the United States (*Bank of Phoebus* v. *Byrum,* 110 Va. 708; *Knowlton* v. *Knowlton,* 155 Ill. 158). (4) If the wife refuses unjustifiably to follow the husband it would amount to desertion on her part and give jurisdiction to the courts of the state to which the husband removed. The principal case seems at first blush to be identical with *Haddock* v. *Haddock,* 201 U. S. 567, in regard to its facts. In that case Haddock was domiciled in New York, and was married there; he abandoned his wife there, and went to Connecticut, where he acquired a domicil. He secured a divorce from her without personal service of process in that state, on the ground of desertion. Later the wife in New York sued Haddock for divorce and he set up the Connecticut decree in defense. It was held to be not binding on the New York court on the ground that the matrimonial domicil continued in New York and never was in Connecticut; so Connecticut did not have jurisdiction over the entire res. The principal case differs, of course, in the fact that the husband's original (and, as he claimed, sole) domicil was in the state where he seeks his divorce.